

### **Remarks**

The Office Action rejected claims 6 – 15 under 35 U.S.C. § 102 as being anticipated by Ryan. The Office Action also rejected claim 15 as being unpatentable over Ryan in view of Passage. Applicant respectfully transgresses these rejections for the reasons set forth below.

### **Discussion of the § 102 Rejections**

The Examiner has rejected claims 6 – 15 under 35 U.S.C. § 102(b) as being anticipated by Ryan. According to the MPEP, “a claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described in a single prior art reference.” MPEP §2131 (quoting *Verdegaal Bros. v. Union Oil Company of California*, 814 F2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1997)). Because the Ryan reference does not contain each and every element of the above-referenced claims as amended, Applicant respectfully requests that the §102(b) rejections be withdrawn and the claims be allowed to issue.

Ryan teaches a doll head and replaceable hairdo construction which, as indicated by its title and in its disclosure, is directed particularly to “fashion model dolls” by which young girls may identify themselves as a part of life in modern America. It proposes a replaceable hairdo for a doll which is realistic and which may be maintained firmly on the head of the doll. It accomplishes these objectives by providing a complete doll head including a head design which includes the appearance of a pre-existing hairdo. (Col. 2, Lines 8 – 9). According to the patent, hairdo design 11 is molded into the head 10. A hairpiece 18 is constructed from a relatively stable, shape-retaining elastic material such as vinyl plastic (Col. 2, Lines 21 – 23) and is generally curved or roughly hemispherical in shape, having a means such as a bead formed along its edge or periphery which serves to restrict the opening 24 of the cap. The patentee states that

the restricted opening and resiliently shape-retaining nature of the cap permit it to snap onto the head of the doll. In actuality, it stays in place by friction of the bead against the molded ridge. Both embodiments of the invention Ryan propose a shoulder or ridge 26 and cap 24. In both of these cases, the hairline is covered by hair because appearance is important in connection with a fashion doll, as discussed in Col. 3, Lines 31 – 34. In such a construction, the bangs 32 need to be long enough to cover the forward edge of the cap 18 so that when there is no headpiece on the doll, it nevertheless presents a natural, attractive appearance and reveals no unsightly mechanism for attaching the headpiece.

In contrast, the present invention deals with a hair education tool. Its object is not the appearance of the hair piece vis-à-vis the headpiece, but the security of the hair on the head form. Rather than use a bead and ridge, as in the '489 patent, therefore, the hair education tool of this invention proposes a means of positively securing the hairpiece to the head form in such a way that it allows brushing, cutting, combing, washing and other acts that would be done by a student of hairstyling and which require the hairpiece to be securely fastened to the head form. For these reasons, the present invention discloses a concave groove into which is inserted a concave ridge, complimentary snap fasteners or a nylon agraffe (which is a hook and loop used as a means for securing piano wire). As seen, the claims have been amended to better describe this arrangement. For example, the claims as written indicate that the first fixing part, the concave groove, is embedded within the head form. Not only does the Ryan patent lack this element, but it also teaches away from it. Having a groove, or any other such fixing part, embedded into the Ryan head form would detract from the purpose of the patent – to have a life-like doll head with or without the addition of hair piece 18.

Additionally, contrary to the statements in the Office Action, nothing in the Ryan patent suggests the use of a groove, snap fasteners or the agraffe along the hairline. The Office Action cites Col. 2, Lines 46 – 52 of the ‘489 patent as being relevant to using a first plurality of snap fasteners but inspection of those lines reveals the following language “in addition to providing this hairdo design so that the doll will be lifelike and attractive when a headpiece is not being used, the construction of the head also provides the means for engaging the cap to releasably retain the headpiece on the head.” (emphasis added) In fact, as discussed above, this language specifically teaches away from the invention in the present application. If the Ryan doll head comprised a groove, snap fasteners or an agraffe embedded therein, it would be far from “lifelike and attractive when a headpiece is not being used.” As such, the requirement of Applicant’s claim 1 is absent from the Ryan reference.

Applicant respectfully submits that Ryan does not disclose each and every element of Applicant’s claim 6. As amended, Applicant’s claim 6 requires, among other elements, that the first fixing part be embedded in the head form, a requirement that is clearly absent from Ryan. Therefore, Applicant requests that the Examiner’s rejection of claim 6 be withdrawn and the claims allowed to issue. Moreover, because claims 7 through 14 depend from claim 6 and, therefore, comprise the same requirement in Applicant’s claim 6 that is absent from Ryan, Applicant respectfully submits that the Examiner’s rejection of these claims also be withdrawn and the claims be allowed to issue.

#### **Discussion of the §103 Rejection**

The Examiner has also rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Ryan in view of Passage. To establish a *prima facie* case of obviousness under 35 U.S.C. §

103(a), the Examiner must meet three criteria: (i) there must be some suggestion or motivation to modify the reference or to combine the reference teachings; (ii) there must be a reasonable expectation of success; and (iii) the prior art reference (or combined references) must teach all the claim limitations. As discussed above, because of Applicant's amendments, claim 6 now comprises elements that are not present in either Ryan or Passage. Therefore, Applicant respectfully submits that the rejection of claim 15 should be withdrawn, and it should be allowed to issue.

### **Conclusion**

It is believed that Applicant has addressed all of the outstanding matters and it is requested that this application be granted a Notice of Allowance at the earliest possible date. Applicant has filed herewith a request for a one month extension. It is believed that no other fees are due at this time. Please contact the undersigned attorney if there are any questions.

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